

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001	03-md-1570 (GBD)(SN) ECF Case
This document relates to: <i>Thomas Burnett, Sr., et al. v. The Islamic Republic of Iran, et al.</i>	15-cv-9903 (GBD)(SN) ECF Case

**DECLARATION OF JOHN M. EUBANKS IN SUPPORT OF MOTION FOR
ENTRY OF PARTIAL FINAL DEFAULT JUDGMENTS ON BEHALF
OF BURNETT/IRAN PLAINTIFFS IDENTIFIED AT EXHIBITS A AND B
(BURNETT / IRAN XXVI)**

JOHN M. EUBANKS, Esquire, hereby states under penalty of perjury that:

1. I am an attorney with the law firm of Motley Rice LLC, attorneys for the Plaintiffs in the above-captioned matters. I submit this Declaration in support of this motion on behalf of the Plaintiffs identified in Exhibits A and B (attached hereto) from the action titled *Burnett, et al., v. Islamic Rep. of Iran, et al.*, 15-cv-9903 (GBD)(SN) (“*Burnett/Iran*”).

2. The form of this motion and the relief requested herein are intended to comply with the following orders of this Court:

- a. The Court’s order dated January 24, 2017 (ECF No. 3435¹), requiring that “[a]ll further motions for final judgment against any defaulting defendant shall be accompanied by a sworn declaration attesting that the attorney has (1) complied with the due diligence safeguards [referenced in Section II.D. of the January 23, 2017 letter from the Plaintiffs' Executive Committee (ECF No. 3433)] and (2) personally verified that no relief has previously been awarded to any plaintiff included in the judgment (or, if relief has been awarded, the nature of that relief).” For compliance with the required sworn declaration, please see below.
- b. The Court’s Order dated October 14, 2016 (ECF No. 3363) concerning the amounts of solatium damage awards.

¹ Unless indicated differently, citations to ECF Nos. are to the docket in *In re Terrorist Attacks on September 11, 2001*, 03-md-1570 (GBD)(SN).

- c. The Court's Order dated October 14, 2016 (ECF No. 3362) related to the cases captioned as *Bauer v. Al Qaeda Islamic Army*, 02-CV-7236 (GBD)(SN) and *Ashton v. al Qaeda Islamic Army*, 02-CV-6977 (GBD)(SN).

3. The form of this motion and the relief requested herein are also consistent with the form and relief requested and granted as to other plaintiffs in the *Burnett/Iran* action. See ECF Nos. 3666, 4023, 4126, 4146, 4175, 5061, 5062, 5087, 5092, 5138, 5151, 5356, 5848, 5946, 5948, 5949, 5951, 5955, 5957, 5975, 5979, 6034, 6035, 6037, 6038, 6039, 7188, 7287, and 7494.

4. Service of process on The Islamic Republic of Iran and the Islamic Revolutionary Guard Corps was executed pursuant to 28 U.S.C. § 1608(a) on September 14, 2016 by service through diplomatic channels. Service on the Central Bank of the Islamic Republic of Iran was executed pursuant to 28 U.S.C. § 1608(b) on March 18, 2016 through direct mailing via the U.S. Postal Service.

5. The sources of my information and the basis for my belief in my statements contained herein are my personal involvement in this matter, my firm's representation of the *Burnett/Iran* Plaintiffs listed in Exhibits A and B, in connection with the September 11th terror attacks, other court records relating to the *In re Terrorist Attacks on September 11, 2001* multidistrict litigation to which these individuals are parties, my communications with other counsel for other plaintiffs in the *In re Terrorist Attacks on September 11, 2001* multidistrict litigation, and conversations with these plaintiffs and other family members of these plaintiffs. Any matters about which I lack personal knowledge are asserted herein upon information and belief.

6. The *Burnett/Iran* Plaintiffs identified in Exhibit A are each family members (in this instance, spouses, parents, children, and siblings (or the estate of a spouse, parent, child, or

sibling)) of decedents from the terrorist attacks on September 11, 2001, as indicated for each person on Exhibit A.

7. The solatium amounts set forth in Exhibit A are the figures this Court has previously determined appropriate for solatium damages based on familial relationship to the decedent. *See, e.g.*, ECF Nos. 3175 at 2; 3300 at 1; 3358 at 9; 3363 at 16; 3399, 3666, and 4023.

8. The *Burnett/Iran* Plaintiffs identified in Exhibit B are each decedents from the terrorist attacks on September 11, 2001, as indicated for each person on Exhibit B.

9. The pain and suffering amounts for the estates set forth in Exhibit B are the figures this Court has previously determined appropriate for compensatory damages for decedents' pain and suffering for decedents in this litigation. *See* ECF No. 2618 at 9; *see, e.g.*, ECF Nos. 3226 at 1; 3382 at 2.

10. To the extent that an estate set forth in Exhibit B includes an amount for economic loss, the economic loss amounts set forth are derived from the expert reports of economist Stan V. Smith, which are included in the attached Exhibit C which includes economic-loss expert reports for each individual for whom economic-loss damages have been sought in Exhibit B. Exhibit C also contains a more fulsome report—for the Estate of Mark Bavis (whose personal representative is a plaintiff in this action—to outline, introduce and delve into the expert methodology that Dr. Smith has employed in each of his summary economic-loss reports providing a breakdown of the summary of both past and future losses for the following categories: (1) loss of wages and benefits; (2) loss of pension benefits (if they exist); (3) loss of housekeeping and home management services; and (4) loss of value of life, also known as the loss of enjoyment of life. As Dr. Smith states in his report for the Bavis estate, "All opinions ... are rendered in accordance with generally

accepted standards within the field of economics and are expressed to a reasonable degree of economic certainty.” *See* Bavis Report at 11.

11. Due to the sensitive financial information contained in these documents in addition to their size and volume, Plaintiffs have filed Exhibit C on ECF under seal pursuant to the Court’s May 5, 2022 order. ECF No. 7963. Plaintiffs submit that these reports should remain off the public docket and under seal as has been the custom in other instances where this type of information has been submitted to the Court.

12. The following is a list of those 9/11 decedents whose economic-loss reports can be found on Exhibit C:

9/11 DECEDENT'S FIRST NAME	9/11 DECEDENT'S MIDDLE NAME	9/11 DECEDENT'S LAST NAME	SUFFIX
Brett	T.	Bailey	
Gregory	Joseph	Buck	
David	Reed	Gamboa-Brandhorst	
Douglas	Alan	Gowell	
Steven	Michael	Hagis	
Waleed		Iskander	
Joseph	Francis	Sacerdote	
Eugene	Michael	Whelan	

13. After reviewing the records available to me regarding other judgments entered by this Court against the Iranian defendants, I have not identified any relief that has previously been awarded to any particular plaintiff identified in Exhibits A and B to *Burnett/Iran* XXVI other than pain-and-suffering damages entered for certain estates on Exhibit B in prior *Burnett/Iran* judgments as noted on Exhibit B.

14. Before filing this motion, I have (1) complied with the due diligence safeguards referenced in Section II.D. of the January 23, 2017 letter from the Plaintiffs' Executive Committees

(ECF No. 3433) and (2) personally verified that, based on my review of the records available to me regarding other judgments entered by this Court against the Iranian defendants, no relief has previously been awarded to any plaintiff included in the judgment.

15. Accordingly, included with this motion is a proposed Order of Partial Final Judgment for the Plaintiffs Identified in Exhibits A and B, conforming to the Court's previous orders.

Dated: May 18, 2022

/s/ John M. Eubanks
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